

**TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE
PATENTING REJECTION OVER A PENDING SECOND APPLICATION**

Docket Number
CGNE.115.01US

In re Application of: **McBride, et al.**

Application No.: **08/984,099**

Filed: **December 3, 1997**

For: **Cotton Fiber Transcriptional Factors**

The assignee for the instant application is Calgene, LLC The assignment was recorded in the Patent and Trademark Office on 15 May, 1998 at Reel 9429, Frame 0175.

The undersigned attorney has reviewed all the documents in the chain of title of the instant application and, to the best of the undersigned's knowledge and belief, title is in the assignees identified above.

The owner*, Calgene LLC of 100% percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second Application No. 08/480,178, filed on June 7, 1995. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. The undersigned is an attorney of record.

December 15, 1999

Date


Signature

BARBARA RAE-VENTER, Ph.D.
Reg. No. 32, 750

Terminal disclaimer fee under 37 CFR 1.20(d) is included.

*Certification under 37 C.F.R. 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).